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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|-----------------|-------------|----------------------|---------------------|------------------|
| 09/926,395 | 10/25/2001 | Keiichi Kawata | 011424 | 9955 |

23850 7590 09/05/2003

ARMSTRONG, WESTERMAN & HATTORI, LLP
1725 K STREET, NW
SUITE 1000
WASHINGTON, DC 20006

EXAMINER

RHEE, JANE J

| ART UNIT | PAPER NUMBER |
|----------|--------------|
|----------|--------------|

1772

DATE MAILED: 09/05/2003

10

Please find below and/or attached an Office communication concerning this application or proceeding.

AS10

| | | | | |
|------------------------------|------------------------|--|---------------------|--|
| Office Action Summary | Application No. | | Applicant(s) | |
| | 09/926,395 | | KAWATA ET AL. | |
| | Examiner | | Art Unit | |
| | Jane J Rhee | | 1772 | |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 19 June 2003.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-11 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-11 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
 If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 a) ☐ All b) ☐ Some * c) ☐ None of:
 1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
 * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
 a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s). _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION
REPEATED REJECTION

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in-

(1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effect under this subsection of a national application published under section 122(b) only if the international application designating the United States was published under Article 21(2)(a) of such treaty in the English language; or

(2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that a patent shall not be deemed filed in the United States for the purposes of this subsection based on the filing of an international application filed under the treaty defined in section 351(a).

1. Claims 1-11 are rejected under 35 U.S.C. 102(e) as being anticipated by Wakizaka et al. (6270900).

Wakizaka et al. discloses a laminate of a multi-layer structure, comprising at least one alicyclic polymer layer (film A example 1 col. 4 line 18), one thermoplastic resin layer (film B col. 19 lines 51 and 57) which comprises thermoplastic resin other than those used in the polymer layer (A) and at least one layer of resin composition comprising an alicyclic polymer and a thermoplastic resin (film A example 3 col. 4 line 22-24). Wakizaka et al. discloses that the thermoplastic resin contained in the resin composition layer is a linear low-density polyolefin having a long period of at most 275 angstroms as measured by the small angle X-ray scattering method (col. 7 lines 25-37). Wakizaka et al. discloses that the alicyclic polymer forming the alicyclic polymer layer is a norbornene polymer (film A example 1 col. 4 line 18). Wakizaka et al. discloses that

the norbornene polymer is a hydrogenated product of a ring-opening polymer of a norbornene monomer (col. 7 lines 52-56). Wakizaka et al. discloses that the multilayer structure is composed of thermoplastic resin layer, resin composition layer, alicyclic polymer layer, resin composition layer, and thermoplastic resin layer (col. 21 lines 48-49). Wakizaka et al. discloses that the total ratio of the alicyclic polymer layer to the thermoplastic resin layer is 1:99 to 70:30 (col. 22 lines 65-67 col. 23 lines 1-3). Wakizaka et al. discloses that the thickness proportion of the resin composition layer is 5 to 100% based on the total thickness of alicyclic polymer layer and the thermoplastic resin layer (col. 4 lines 54-58). Wakizaka et al. discloses that the thickness of the alicyclic polymer is 0.1 to 180 μm (col. 19 lines 1-2), the thickness of the thermoplastic resin layer is 0.2 μm to 250 μm (col. 20 lines 59-62), and the thickness of the resin composition layer is 0.07 to 75 μm (col. 19 lines 1-2). Wakizaka et al. discloses that the thickness of the laminate is 0.5 μm to 5mm (col. 2 lines 60-61). Wakizaka et al. discloses that the laminate is in the form of a film or sheet (col. 1 line 1). Wakizaka et al. discloses that laminate is formed in the form of a container (col. 24 line 13).

Response to Arguments

2. Applicant's arguments filed 6/19/03 have been fully considered but they are not persuasive.

In response to applicant's argument that claim 1 has been amended to claim a laminate with at least 3 chemically different layers because thermoplastic resin layer B comprises thermoplastic resin other than those used in the polymer layer A and that Wakizaka only discloses two chemically different layers, however, claim 1 is claimed

wherein the laminate comprises at least one alicyclic polymer layer A, a thermoplastic layer B, and a resin composition C comprising an alicyclic polymer and a thermoplastic resin therefore, the layer A and the layer C does not necessarily have to be two different layers, layer A and layer C can be a layer comprising an alicyclic polymer and a thermoplastic resin. Wakizaka discloses a laminate of a multi-layer structure, comprising at least one alicyclic polymer layer (film A example 1 col. 4 line 18), one thermoplastic resin layer (film B col. 19 lines 51 and 57) which comprises thermoplastic resin other than those used in the polymer layer (A) and at least one layer of resin composition comprising an alicyclic polymer and a thermoplastic resin (film A example 3 col. 4 line 22-24).

Conclusion

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jane J Rhee whose telephone number is 703-605-4959. The examiner can normally be reached on M-F.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Harold Pyon can be reached on 703-308-4251. The fax phone numbers for the organization where this application or proceeding is assigned are 703-872-9310 for regular communications and 703-872-9311 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-0661.



Jane Rhee
August 26, 2003



HAROLD PYON
SUPERVISORY PATENT EXAMINER

1772

9/4/03